

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

DANIEL O'NEILL,

Plaintiff,

v.

CIV 12-54 MCA/GBW

FNU LNU, ALFONSO SOLIS,
JAMES LOPEZ, DWANE
SANTISTAVEN, & EDDY ULTIAGA,

Defendants.

ORDER GRANTING LEAVE TO AMEND

THIS MATTER is before the Court on Plaintiff's Motion Requesting the Law of Confidential Privilege [sic] legal-mail to be Honored ("Plaintiff's Motion"). *Doc. 9*. Because Plaintiff's Motion makes additional claims and seeks additional relief based upon premises similar to Plaintiff's Complaint, (*compare doc. 1 with doc. 9*), the Court will construe the motion as one for leave to amend the Complaint. Plaintiff's Motion, construed as such, will be granted.

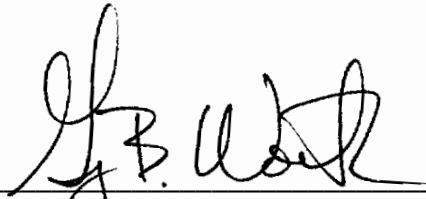
Federal Rule of Civil Procedure 15 provides that "[a] party may amend its pleading once as a matter of course" within twenty-one days of service of a responsive pleading. Fed. R. Civ. P. 15(a)(1)(B). Plaintiff filed his Complaint on January 18, 2012 and no defendants have yet been served. *See doc. 1; see also doc. 11*. Due to service not having occurred, no responsive pleading has been filed. Therefore, Plaintiff's proposed

amendment is within Rule 15's "matter of course" allowance. As this is Plaintiff's first amendment, the Court will grant Plaintiff's Motion.

Plaintiff is proceeding *pro se*, so his pleadings are construed liberally. It appears to the Court that the allegations contained within Plaintiff's Motion are meant to supplement, not replace, the allegations within Plaintiff's Complaint. Therefore, the Court will proceed as if Plaintiff had filed a single Amended Complaint which contains the allegations of the original Complaint and Plaintiff's Motion.

Wherefore, IT IS HEREBY ORDERED that Plaintiff's Motion, (*doc. 9*), is GRANTED.

IT IS FURTHER ORDERED that the allegations in Plaintiff's original Complaint and Plaintiff's Motion shall be read together and deemed Plaintiff's Amended Complaint.



GREGORY B. WORMUTH
UNITED STATES MAGISTRATE JUDGE